

HOUSE No. 3486

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to savings, reforms and revenues for cities and towns ..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Clause 16(1)(d) of section 5 of chapter 59 of the General Laws, as so
2 appearing in line 223 of the 2002 official version, is hereby amended by adding after the words
3 "fifty-two A" the phrase "other than a telephone or telegraph corporation,"

4 SECTION 2. Clause 16(1)(c) of section 5 of chapter 59 of the General Laws, as so
5 appearing in line 220 of the 2002 official version, is hereby amended by adding the following
6 underlined words – "...other than a telephone or telegraph corporation taxed pursuant to c. 63 s.
7 52A or mentioned in either..."

8 SECTION 3. Clause 16(2) of section 5 of chapter 59 of the General Laws, as so
9 appearing in line 239 of the 2002 official version, is hereby amended by adding the following
10 underlined words – "...both as defined in section thirty of chapter sixty-three, or a telephone or
11 telegraph corporation subject to tax pursuant to c. 63 s. 52A, all property..."

12 SECTION 4. Clause Fifth of section 18 of said chapter 59, as so appearing on line 73 of
13 the 2002 official version, is hereby amended by adding at the end thereof the following two

sentences: - Poles, underground conduits, wires and pipes of telecommunications companies laid in or erected upon public or private ways and property shall be assessed to the owners thereof in the towns where laid or erected. For purposes of this clause, telecommunications companies shall include cable television, internet service, telephone service, data service and any other telecommunications service providers.

SECTION 5. Section 39 of said chapter 59, as so appearing in line 1 of the 2002 official version, is hereby amended by striking the first sentence thereof and inserting the following:-

The valuation at which the poles, wires and underground conduits, wires and pipes of all telephone and telegraph companies shall be assessed by the assessors of the respective cities and towns where such property is subject to taxation shall be determined annually by the commissioner of revenue subject to appeal to the appellate tax board, as hereinafter provided. Other taxable personal property of telephone and telegraph companies shall be valued and assessed by the assessors of the respective cities and towns where such property is subject to taxation, in the same manner as other personal property is valued and assessed under this chapter. For purposes of sections thirty-nine through forty-two, telephone and telegraph companies shall include only those telecommunications companies which own and operate two-way voice communications service over wires or cables and are subject to rate regulation by the department of telecommunications and energy. Towers and monopoles used to support machinery and equipment for wireless communications shall not be considered poles under this section and shall be considered part of the real estate subject to valuation and assessment by local assessors.

SECTION 6. Notwithstanding section 89 of Chapter 71 of the General Laws or any general or special laws to the contrary, no commonwealth charter school shall receive any tuition payment for the first time in fiscal 2010 or for any increase in enrollment.

SECTION 7. Notwithstanding section 89 of Chapter 71 of the General Laws or any general or special law to the contrary, the total charter school tuition payment amount for each sending district for fiscal year 2010 shall be reduced by the same percentage as any decrease from fiscal 2009 to fiscal 2010 in Chapter 70 school aid and any decrease in reimbursements of charter school tuition payments.

SECTION 8. Chapter 32B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following new section:

Section 20. Effective July 1, 2009, a governmental unit is authorized to include, as part of the health plans (HMOs, PPOs, indemnity plans) that it offers to its employees and retirees, co-payments, deductibles and tiered provider network co-payments (or other plan design features) that are no greater in dollar amount than the highest co-payments, deductibles and tiered provider network co-payments (or other plan design features) provided in any of the same class (HMOs, PPOs, indemnity plans) of health plans offered by the Group Insurance Commission pursuant to chapter 32A of the General Laws. For purposes of this section, a "Point of Service" plan offered by a governmental unit shall be considered to fall within the PPO class.

The above authorized dollar amounts for co-payments, deductibles and tiered provider network co-payments (or other plan design features) shall be increased whenever the Group Insurance Commission increases the dollar amount of co-payments and/or deductibles and/or

56 tiered provider network co-payments (or other plan design features) on the health plans that it
57 offers.

58 A governmental unit may include in its health plans co-payments, deductibles and tiered
59 provider network co-payments (or other plan design features) up to the above-referenced
60 amounts without bargaining pursuant to Chapter 150E of the General Laws concerning the
61 decision to do so or the impact of the decision.

62 Nothing herein shall prohibit a governmental unit from including in its health plans
63 higher co-payments, deductibles or tiered provider network co-payments (or other plan design
64 features) than those authorized by the preceding paragraphs of this section; but such higher co-
65 payments, deductibles or tiered provider network co-payments (or other plan design features)
66 may be included only after the governmental unit has satisfied any bargaining obligations
67 pursuant to Chapter 150E of the General Laws.

68 SECTION 9. Chapter 64H of the General Laws, as appearing in the 2006 official
69 Edition, is hereby amended by inserting the following new section:-

70 Section 2B. Any city or town which accepts the provisions of this section may impose a
71 local excise tax, as provided in this chapter, upon the sale of meals, as defined in this chapter, of
72 not more than 3 percent of the total price of the meal. The local excise tax imposed under this
73 section shall be paid by the vendor to the commissioner at the same time and in the same manner
74 as the excise tax due the commonwealth. All sums received by the commissioner under this
75 section as excise, penalties or forfeitures, interest, cost of suit and fines shall at least quarterly be
76 distributed, credited and paid by the state treasurer upon certification of the commissioner to
77 each city or town that has adopted the provisions of this section in proportion to the amount of

such sums received from the sale of meals in each such city or town. This section shall only take effect in a city or town accepting the provisions of this section by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B or Plan F charter, by a majority vote of the city council, in the case of a city with a Plan C, Plan D or Plan E charter, by a majority vote of the annual town meeting or a special town meeting called for that purpose, in the called-for purpose, in the case of a municipality with a town meeting form of government; or by a majority of the town council, in the case of a municipality with a town council form of government. The provisions of this section shall take effect on the first day of the first calendar month following such acceptance; provided further, that if such day is less than 15 days after such acceptance it shall take effect on the first day of the second calendar month following such acceptance. The city or town, in accepting this section, may not revoke or reimpose the local excise tax provided for in this section more often than once in any 12 month period. The commissioner of revenue shall make available to any city or town a report of the total amount of sales tax collected in the preceding fiscal year in the city or town requesting the information.

SECTION 10. Chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 3A and inserting in place thereof the following section:-

Section 3A. (a) Any city or town which accepts this section may impose a local excise tax upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house or motel located within that city or town by any operator at a rate up to, but not exceeding, 6 per cent of the total amount of rent for each occupancy. No excise shall be imposed if the total amount of rent is less than 15 dollars per day or its equivalent or if the

accommodation is exempt under section 2 of this chapter. The operator shall pay the local excise tax imposed under the provisions of this section to the commissioner at the same time and in the same manner as the excise tax due the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of the sums received from the transfer of occupancy in that city or town. This section shall take effect in a city or town that accepts it as provided in section 4 of chapter 4. This section shall take effect on the first day of the calendar quarter following 30 days after this acceptance, or on the first day of a later calendar quarter that the city or town may designate. The city or town, in accepting this section, may not revoke or otherwise amend the applicable local tax rate more often than once in any 12-month period. The commissioner of revenue shall make available to any city or town a report of the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

SECTION 11. Section 1 of chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the word “motel” in line 29, the following words:- or other transient accommodations

SECTION 12. Section 1 of chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is further amended by inserting after the word “rooms” in line 33, the following words:- or other transient accommodations

SECTION 13. Section 1 of chapter 64G, as appearing in the 2006 Official Edition, is further amended by adding the following subsections:

(k) “Transient accommodations” any vacation or leisure accommodation, including but not limited to apartment, single or multiple family housing, cottage, condominium and time-share unit which , is rented to occupants for a period of 90 consecutive days or less regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

(l) “Vacation or leisure accommodation”, occupancy for a price to be paid and intended at the time of contract or agreement to be for a period of 90 consecutive days or less regardless of whether such use and possession is as lessee, tenant, guest or licensee.

SECTION 14. Chapter 64G of the General Laws, as appearing in the 2006 Official Edition, is further amended by adding the following section:-

Section 13. (i) Any city or town which accepts or has accepted the provisions of section 3A may, by a separate vote, accept the provisions of this section and expand the imposition of room occupancy excise to include transient accommodations. (ii) For transient accommodations subject to this section, the owner of the apartment, single or multiple family housing, cottage, condominium or time-share unit shall be responsible for assessing, collecting, reporting, and paying over the tax as described for operators in sections 3, 4, 5, 6 and 7A, and shall be liable in the same manner as operators in section 7B. If a property owner has a manager or management company collecting the rent such manager or management company shall collect the room occupancy excise and forward it to the owner along with the accommodation fee. The provisions of this section shall not apply to accommodations provided to seasonal employees by employers.